

Message Text

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14

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FM SECSTATE WASHDC

TO AMEMBASSY AMMAN PRIORITY

AMEMBASSY BEIRUT

USINT CAIRO

AMCONSUL DHAHRAN

AMCONSUL JERUSALEM

AMEMBASSY JIDDA

AMEMBASSY KUWAIT

AMEMBASSY MANAMA

AMEMBASSY TEHRAN

AMEMBASSY TEL AVIV

AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY MOSCOW

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AMEMBASSY ATHENS

AMEMBASSY ANKARA

AMEMBASSY NICOSIA

AMCONSUL ORAN

AMEMBASSY RABAT

AMCONSUL CASABLANCA

AMEMBASSY NOUAKCHOTT

AMEMBASSY KHARTOUM

AMEMBASSY TUNIS

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AMEMBASSY VALLETTA

USINT ALGIERS
AMCONSUL TANGIERS
AMEMBASSY TRIPOLI PRIORITY
USCINCEUR
USCINCUSAFE

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BEIRUT ALSO POUCH BAGHDAD AND SANAA

EO. 11652: GDS
TAGS: PFOR LY PBOR

SUBJECT: EXCERPTS OF TRANSCRIPT PRESS BRIEFING FRIDAY,
MARCH 23, 1973

1. (ON THE RECORD UNLESS OTHERWISE NOTED)

Q. CHARLES, WHAT ARE THE LATEST DEVELOPMENTS ON THE
LIBYAN AIRPLANE INCIDENT? HAVE WE HAD A RESPONSE AND AN
EXPLANATION FROM THE LIBYAN GOVERNMENT?

A. I BELIEVE THE ANSWER IS NO, NICK, BUT I AM FRANK TO
SAY I DIDN' T HAVE THE WIT TO CHECK THIS MORNING. IF
THE ANSWER IS DIFFERENT, WE WILL LET YOU KNOW. (SUBSEQUENT
ANSWER, NO.)

Q. CHARLES, ARE THE REPORTS CORRECT ABOUT LIBYA CLAIMING
A RESTRICTIVE AREA 100 MILES AROUND TRIPOLI, AND I GATHER
THAT WE HAVE OBJECTED TO THAT IN THE PAST. DO YOU HAVE
THE BACKGROUND ON THAT?

A. SOMETIME IN 1972 -- AND I DON' T HAVE THE DATE HERE,
I DON' T THINK IT IS TERRIBLY MATERIAL -- THE LIBYANS
ESTABLISHED WHAT THEY CALLED A RESTRICTED AREA CENTERING
ON TRIPOLI, WITH A RADIUS OF 100 MILES. UNDER INTERNA-

TIONAL LAW, AND BY THIS I REFER BOTH TO THE CHICAGO
CONVENTION OF 1944, TO WHICH THE LIBYAN GOVERNMENT IS
SIGNATORY, AND THE GENEVA CONVENTION ON THE HIGH SEAS OF
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1958, TO WHICH IT IS NOT, BUT WHICH NONETHELESS EXISTS --
UNDER INTERNATIONAL LAW, NO GOVERNMENT HAS THE RIGHT TO
ESTABLISH RESTRICTED AREAS WHICH EXTEND BEYOND ITS TERRI-
TORIAL LIMITS. INDEED, THE RIGHT TO RESTRICT FLIGHT OF
AIRCRAFT AS IT IS SPELLED OUT IN THE CHICAGO CONVENTION
IS GEOGRAPHICALLY LIMITED TO AIR SPACE OVER NATIONAL
TERRITORY. IT DOES NOT ENABLE A STATE TO INFRINGE UPON
THE FREEDOM OF AIR SPACE OVER THE HIGH SEAS. AND AS I

TOLD SOME OF YOU YESTERDAY, WE MADE CLEAR TO THE LIBYAN GOVERNMENT, IN LATE NOVEMBER OF LAST YEAR, BOTH THE SENSE OF THE INTERNATIONAL LAW BEARING ON THE SUBJECT AND OUR POSITION THAT WE COULD NOT ACCEPT THIS UNILATERAL EXTENSION OF WHAT COULD BE CONSTRUED AS SOVEREIGNTY.

NOW, LET ME ADD TO THAT THOUGHT, ON BACKGROUND, WHICH SHOULD BE OBVIOUS, AND THAT IS THAT WHERE THERE IS A CLEAR BODY OF INTERNATIONAL LAW OF THIS KIND AFFECTING THE SEAS OR THE AIR SPACE, THE INTERNATIONAL COMMUNITY SIMPLY CANNOT GET ITSELF IN A POSITION OF ACKNOWLEDGING OR ACCEPTING UNILATERAL RESTRICTIONS WHICH IMPINGE, INFRINGE UPON WHAT IS BROADLY GRANTED BY LAW. IF WE ACCEPT THAT PRINCIPLE, WHOEVER WE MAY BE, THE INTERNATIONAL SYSTEM BEGINS TO CRUMBLE A BIT.

Q. CHARLES, AS FAR AS I HAVE READ, THIS AIRCRAFT WAS SOME 85 MILES FROM THE LIBYAN COAST. DOES IT ALSO MEAN IT WAS INSIDE THIS CLAIMED 100 MILE LIMIT OF TRIPOLI?

A. I AM NOT CERTAIN HOW FAR INLAND FROM THE CITY THE AIRPORT IS, HANS. BUT THE POINT IS, WHATEVER THIS UNILATERAL ASSERTION, IT IS SIMPLY AN UNACCEPTABLE INFRINGEMENT ON THE CLEAR PRINCIPLES, THE CLEAR STATEMENT OF INTERNATIONAL LAW ON THE SUBJECT.

A. AS I JUST SAID, WE TOLD THE LIBYANS THIS IN NOVEMBER.

Q. YOU REJECTED THE LIBYAN CLAIM LAST NOVEMBER. WAS THIS THE LAST WORD. DID THEY ANSWER TO YOUR REJECTION?

A. ENDRE, I WOULD HAVE TO KNOW WHETHER WE ASKED FOR A RESPONSE. I AM INCLINED TO THINK THAT PERHAPS IN LIMITED OFFICIAL USE

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THE CIRCUMSTANCES WE DIDN' T -- WE SIMPLY STATES THE LAW AND OUR POSITION WITH RESPECT TO THE LAW.

Q. CHARLES, YOU ARE NOT IN A POSITION, THEN, TODAY TO SAY WHERE THE AIRPLANE WAS WITH RESPECT TO THIS RADIUS THAT THE LIBYANS CLAIM. WAS THE AIRPLANE INSIDE THAT--

A. I TAKE THE QUESTION.

Q. CHARLES, IN TALKING ABOUT VARIOUS MILES HERE YESTERDAY, WERE THOSE STATUTE MILES OR NAUTICAL MILES?

A. NAUTICAL MILES.

Q. DID ANYTHING IN PARTICULAR OCCASION
OUR EXPRESSION OF OPINION TO THE LIBYANS IN NOVEMBER?
HAVE THERE BEEN PREVIOUS INCIDENTS -- NOT FIRING. BUT
WHY DID WE HAVE OCCASION TO SAY THIS TO THE LIBYANS LAST
NOVEMBER?

A. WELL, I THINK THERE ARE PROBABLY TWO THINGS I DON'T
KNOW. ONE IS WHEN THIS RESTRICTED ZONE WAS ESTABLISHED,
WHICH MAY BE THE ANSWER TO YOUR QUESTION. AND TWO, WHEN
IT CAME TO OUR ATTENTION. IN ANY EVENT, MY UNDERSTANDING
IS THAT WE EXPRESSED OUR VIEWS FOR THE RECORD, BUT
WITHOUT REFERENCE TO ANY INCIDENTS OF ANY KIND, JOE.

Q. ALL I WANT TO KNOW IS WHETHER THEIR ZONE WAS EXPRE-
SSED IN NAUTICAL MILES OR STATUTE MILES.

A. SURE. I UNDERSTAND THAT. I WILL TRY TO GET YOU AN
ANSWER. (NAUTICAL) BUT I WANT TO REPEAT -- WHATEVER
THE ANSWER TO THAT QUESTION AND SOME OF THESE OTHERS,
FROM THE LEGAL POINT OF VIEW, AND THERE IS AN AGREEMENT
TO WHICH LIBYA WHICH IS PARTY IN THIS RESPECT, THERE IS
NO BASIS FOR THESE RESTRICTED AREAS.

Q. CHARLIE, HAVE WE HAD ANY INDICATION FROM THE LIBYANS
AT ALL VERBALLY AS TO WHY THIS PLANE WAS FIRED UPON,
WHAT WAS THEIR PURPOSE IN DOING IT?

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A. AS I SAID HERE THE OTHER DAY, JIM, WHEN WE FIRST
DISCUSSED THE SUBJECT, THAT IS WHAT WE HAVE ASKED FOR.
WE DON'T HAVE A RESPONSE YET.

Q. ARE YOU ALSO TAKING MURREY'S QUESTION AS TO WHETHER
THERE HAVE BEEN ANY OTHER INCIDENTS -- ANY OTHER TIMES
THAT OUR PLANES HAVE BEEN CHALLENGED?

A. NO, I AM NOT.

Q. CHARLIE, HAS ANY OTHER COUNTRY IN THE MIDDLE EAST
EXPRESSED SIMILAR RESTRICTIONS?

A. GEORGE, I DON'T KNOW. I WILL ATTEMPT TO FIND OUT
FOR YOU. (SUBSEQUENT ANSWER, NO)

Q. CHARLIE, QUITE APART FROM THE LEGAL QUESTION, DID
THE LIBYANS --

A. NOW, LET ME ADD ONE OTHER THING TO THIS. THAT IS
THAT IT IS PERMISSIBLE UNDER INTERNATIONAL LAW AND THE

CHICAGO CONVENTION TO ESTABLISH DANGER ZONES BY NOTICE TO AIRMEN, WHICH SIMPLY INDICATES TO THE AIRMEN THAT THEY ENTER THAT AIR SPACE AT THEIR PERIL -- TRAINING FLIGHTS GOING ON OR WHATEVER IT MAY BE. BUT YOU MAY NOT PROHIBIT OR REQUIRE THAT PERMISSION FOR FLIGHTS THROUGH AIR SPACE OVER THE INTERNATIONAL SEAS.

Q. THE WARNINGS ON THE LIMITATIONS -- THE RUSSIANS ESTABLISHED SOME IN THE PACIFIC WHEN THEY WERE TESTING MISSILES. WE HAVE DONE THE SAME THING.

A. SURE.

Q. IS THERE ANY LIMIT ON HOW LONG A WARNING MAY BE UNDER THAT CONDITION, WHICH I UNDERSTAND IS ENTIRELY SEPARATE FROM A PROHIBITED AREA.

A. I WOULD HAVE TO CHECK, STEWART. IT MAY BE SPELLED OUT IN, I THINK IT IS, ARTICLE 9 OF THE CONVENTION. WE MIGHT JOINTLY CHECK THAT AFTER THIS.
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Q. CHARLIE, CAN WE ASSUME THAT THERE IS REGULAR TRAFFIC THROUGH THAT SAME AREA BY SIMILAR AIRCRAFT OR OTHER AIRCRAFT.

A. NO, YOU CAN MAKE NO SUCH ASSUMPTION.

Q. CAN YOU TELL US WHETHER THIS WAS A SINGULAR FLIGHT THAT WAS CHALLENGED, THAT THERE IS NOT REGULAR TRAFFIC?

A. I AM SIMPLY SAYING YOU CAN MAKE NO SUCH ASSUMPTION, ONE WAY OR THE OTHER.

Q. CAN YOU FIND OUT?

A. NO. I AM SIMPLY SAYING HERE FOR THE RECORD YOU MAY MAKE NO ASSUMPTION WITH RESPECT TO FLIGHTS.

Q. IS THERE NO INTERNATIONAL CIVIL AIR TRAFFIC IN AND OUT OF TRIPOLI?

A. NOT BY AMERICAN REGISTERED AIRCRAFT.

Q. BY ANYBODY?

A. I AM SURE THERE IS, YES.

Q. IS THIS RESTRICTION JUST AGAINST AMERICAN PLANES?

A. NO, I THINK IT IS GENERAL.

Q. BUT THERE IS NO OBJECTION AS FAR AS YOU KNOW TO FOREIGN CIVIL AIRLINERS FLYING IN THAT ZONE.

A. WELL, I ASSUME THAT THIS UNILATERAL STATEMENT OF WHAT IS REQUIRED TO ENTER THE ZONE IS BLANKET ACROSS THE BOARD.

Q. WHAT IS REQUIRED TO ENTER THE ZONE?

A. ADVANCE PERMISSION TO ENTER.

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Q. LET US PUT IT AS A SPECIFIC QUESTION.

A. LET ME JUST ANSWER A QUESTION STEWART HAD, MURREY, AND THAT IS THAT NAUTICAL MILES ARE AT ISSUE HERE IN BOTH RESPECTS.

Q. IN BOTH CASES.

A. YES.

Q. LET US PUT IT THEN AS A SPECIFIC QUESTION, AND SEE IF WE CAN GET THE FACTS ESTABLISHED IN THIS CASE, AND THAT IS THE QUESTION IS WHETHER OR NOT THIS IS THE FIRST TIME THAT LIBYA HAS INVOKED ITS RESTRICTED ZONE AGAINST EITHER AMERICAN OR OTHER NATIONS' AIRCRAFT TO THE KNOWLEDGE OF THE UNITED STATES.

A. WELL, I HAVE NO INTENTION OF TRYING TO SUM UP EXPERIENCED WITH RESPECT TO OTHER NATIONS. THERE ARE NO AMERICAN COMMERCIAL AIRCRAFT ON FLIGHT PATHS IN THIS AREA, TO MY UNDERSTANDING OF IT, MURREY. AND I AM SAYING YOU CAN MAKE NO ASSUMPTIONS WITH RESPECT TO MILITARY FLIGHTS.

Q. WELL, THAT IS WHAT WE ARE TRYING TO ESTABLISH -- WHETHER THE PAST PRACTICE OF LIBYA HAS BEEN TO TRY TO ENFORCE THIS RESTRICTED AREA OR HAS NOT BEEN TO TRY TO ENFORCE THE RESTRICTED AREA. AND U. S. AIR CONTROLLERS, MILITARY AIR CONTROLLERS, WOULD KNOW VERY WELL WHETHER THAT HAS BEEN APPLIED IN THE PAST OR NOT.

A. THAT IS PROBABLY CORRECT, ASSUMING THERE HAS BEEN ANY PREVIOUS EXPERIENCE WITH THIS.

Q. RIGHT. WHAT WE ARE TRYING TO ESTABLISH IS WHETHER

THERE IS A NEW ELEMENT OF TENSION IN U. S.- LIBYAN RELATIONS HERE.

A. I UNDERSTAND THAT, MURREY.

Q. CHARLIE, WHY DIDN' T YOU TELL US ABOUT THIS INTERCHANGE LIMITED OFFICIAL USE

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WITH THE LIBYANS YESTERDAY OR THE DAY BEFORE?

A. WELL, FOR A VERY SIMPLE REASON AND I THINK A RESPECTABLE ONE. GIVEN THE FACT THAT THIS RESTRICTED AREA HAS NO LEGAL BASIS OF ANY KIND, I SAW NO UTILITY SERVED IN ACCORDING THE CONCEPT, THE KIND OF QUASI AND TOTALLY INFORMAL LEGITIMACY WHICH COMES FROM A PUBLIC DISCUSSION OF IT BY SPOKESMEN FOR THE GOVERNMENT. AND THAT IS A PERFECTLY STRAIGHTFORWARD ANSWER.

Q. HOWEVER, IF IT HAD BEEN MENTIONED ON BACKGROUND OR SOME OTHER FUZZY BACKGROUND RULES, IT WOULD HAVE HELPED FOR MANY OF US TO UNDERSTAND SOME OF THE ELEMENTS OF THE SITUATION. AND I THINK IT WOULD HAVE BEEN MOST USEFUL FOR PUBLIC KNOWLEDGE TO HAVE HAD THIS YESTERDAY OR THE DAY BEFORE.

A. WELL, GIVEN THE LAW OF THE MATTER, IT DOESN' T PLAY ONE WAY OR THE OTHER, NICK, IN OUR VIEW.

Q. THIS IS A SOUND ARGUMENT LEGALLY, CHARLIE, BUT IT IS NOT POLITICALLY. WE WERE AWARE WHEN WE FLEW INTO THAT AREA THAT THERE COULD BE PROBLEMS, AND THAT IS SORT OF AT LEAST POLITICALLY RELEVANT TO THE SITUATION, EVEN IF IT MAY NOT BE LEGALLY RELEVANT.

A. WELL, I HEAR YOU.

Q. ISN' T IT A FACT THAT THE LIBYANS HAVE NOT CLAIMED THAT THEY FIRED ON THIS PARTICULAR PLANE BECAUSE OF THE

OF THE VIOLATION OF THAT RESTRICTED ZONE?

A. TO MY KNOWLEDGE, THEY HAVE NOT ADDRESSED THIS PUBLICLY IN ANY WAY, GEORGE, NOR HAVE THEY RESPONDED TO US.

Q. WELL, HAVE WE ESTABLISHED FOR CERTAIN THAT THIS PLANE WAS IN THAT ZONE?

A. I THINK PROBABLY SO, YES.

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Q. CHARLIE, APART FROM THE LEGAL QUESTION, AT THE TIME THAT --

A. LET ME JUST SAY -- AT ONE POINT OR ANOTHER.

Q. AT THE TIME THAT THE LIBYANS OR WE BECAME AWARE OF THIS CLAIM OF RESTRICTED ZONE, DID THE LIBYANS EXPLAIN THE REASON FOR ESTABLISHING THIS ZONE, AND IF SO, WHAT WAS THAT REASON?

A. I WILL CHECK FOR YOU. I DON'T KNOW OFFHAND, DAN.
(SUBSEQUENTLY ANSWERED, FOR AVIATION SECURITY PURPOSES).

Q. YOU MEAN YOU LOOKED THIS UP AND IT WAS JUST A COMPLETELY FORMAL NOTIFICATION WITHOUT EXPLANATION?

A. I SAID I DON'T KNOW THE ANSWER TO THAT. NOW, MAYBE I FOCUSED ON PARTS OF THIS AND NOT THE WHOLE, OR MAYBE I FOCUSED ON THE WRONG PARTS. BUT I HAVE UNDERTAKEN TO GET YOU AN ANSWER FOR THAT.

Q. GOOD. I WOULD APPRECIATE ANY EXPLANATION AND THE TIMING OF WHEN THE LIBYANS PROMULGATED THIS.

A. I HAVE UNDERTAKEN TO GET THAT FOR YOU.

Q. CHARLES, JUST TO CLEAR AWAY SOME OF THE CONFUSION IN MY OWN MIND, WHEN YOU FIRST TOLD US ABOUT THIS THE DAY BEFORE YESTERDAY, DID YOU KNOW THEN THAT THE LIBYANS DID YOU PERSONALLY KNOW THAT THE LIBYANS CLAIMED THIS 100 MILE RESTRICTIVE ZONE?

A. YES.

Q. DO YOU HAVE ANY RESPONSE TO THE REPORTS IN THE EGYPTIAN PRESS TODAY THAT THAT PLANE AND OTHER PLANES

WERE CARRYING OUT RECONNAISSANCE NOT ONLY OVER LIBYA BUT OVER EGYPT?

A. NO.
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Q. NO RESPONSE?

A. NO, I HAVE NO RESPONSE TO THAT.

Q. NO COMMENT ON IT?

A. NO.
ROGERS

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